

General Information Letter: Individuals are not taxed on income from qualifying pension plans.

October 7, 1998

Dear:

This is in response to your letter dated August 31, 1998, in which you request a letter ruling. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter you have stated the following:

My nephew, a resident of Illinois, is retiring this Fall. He tells me he doesn't have to pay Illinois state tax on his pension from XX. If this is true I've paid Illinois state taxes on my pension from XX&X for 11 years, before I moved to Wisconsin. Please reply.

**Response**

Section 203(a) of the Illinois Income Tax Act (IITA) begins computation of taxable income with federal adjusted gross income (FAGI). Certain exemptions, additions and subtractions then modify FAGI to determine the amount taxed by the state of Illinois. Section 203(a)(2)(F) authorizes the subtraction from FAGI of any amounts received from federally tax-qualified pension plans. Plans qualifying under Internal Revenue Code Sections 402(a), 402(c), 403(a), 403(b), 406(a), 407(a) and 408 are fully subtractable.

In other words, income from any pension plan that was designed to comply with those sections of the United States Internal Revenue Code is not taxable in Illinois. However, not all pension plans are designed to be federally tax qualified. Two different pensions, therefore, may have different tax treatments by the state. You may wish to contact your plan's administrator to determine whether your plan is qualified or not.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Sincerely,

Kent R. Steinkamp  
Staff Attorney -- Income Tax